

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SEAN A. SOUELS,

Plaintiff,

v.

MATTHEW SMITH; KIMBERLY ARTIST,

Defendants.

Civil Action
No. 17-0272 (JBS-AMD)

MEMORANDUM OPINION

SIMANDLE, Chief District Judge

Plaintiff Sean A. Souels, a prisoner currently confined at FCI Schuylkill, Pennsylvania, seeks to bring this civil action in forma pauperis ("IFP"), without prepayment of fees or security. IFP Application, Docket Entry 5-4.

The account statement shows that Plaintiff has National 6 Month Deposits of \$2,776.83, National 6 Months Withdrawals of \$2,180.43, National 6 Months Average Daily Balance of \$1,201.93, a 30-day local maximum balance of \$1,753.68, and a 30-day average balance of \$1,520.82. Application at 4. Plaintiff received an average monthly deposit of \$462.81 for the last six months.¹

The current filing fee for a civil action is \$350 plus a \$50 administrative fee. IFP status is a privilege, not a right. *Shahin v. Sec. of Del.*, 532 F. App'x 123 (3d Cir. 2013) (per

¹ \$2,776.83 ÷ 6 months = \$462.805.

curiam) (citing *White v. Colo.*, 157 F.3d 1226, 1233 (10th Cir. 1998)). "In determining whether a litigant is eligible for IFP status, the Court should consider the financial position of the party." *Id.* (affirming denial of IFP in spite of monthly income of only \$95 from self-employment as plaintiff would not be deprived of "necessities of life").

Here, Plaintiff's income as reflected by the account statement indicates he is able to afford the \$350 filing fee and \$50 administrative fee. His average monthly balance of \$1,582 is nearly four times the filing fee. Requiring him to pay the filing fee would not deprive him of the necessities of life as the prison provides his food, clothing, and shelter. Like the plaintiff in *Shahin*, Plaintiff may have to save in order to pay the filing fee, but such requirement "would not deprive [him] of the 'necessities of life.'" 532 F. App'x at 124. The Court will therefore deny the application to proceed *in forma pauperis*.

An appropriate order follows.

May 26, 2017

Date

s/ Jerome B. Simandle

JEROME B. SIMANDLE

Chief U.S. District Judge